



## **Safety & Wellbeing Policy Arrangement**

### **Section 17 – Safety Committees and Safety Consultation**

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## **Arrangement Section 17 – Safety Committees and Safety Consultation**

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Further guidance on this matter can also be obtained from Health and Safety  
Telephone No. 01698 520645

## **Arrangement Section 17 – Safety Committees and Safety Consultation**

### **1. Introduction**

North Lanarkshire Council seeks to establish a positive attitude to health and safety among employees and views co-operation with Safety Representatives and the establishment of Safety Committees as vital to the achievement of this objective. The Council will promote co-operation between individuals, Safety Representatives and Groups so that health and safety becomes a collaborative effort.

The guidance contained in this document outlines the role and functions of Safety Representatives and Representatives of Employee Safety, the functions of Safety Committees and recommends a structure for Safety Committees within the Council.

### **2. Statement.**

The Council will undertake to meet the duties placed on the Authority by the Safety Representatives and Safety Committees Regulations 1977 (SRSCR) and The Health and Safety (Consultation with Employees) Regulations 1996 (HSCER).

The Council will consult the relevant Safety Representatives and, where appropriate, Representatives of Employee Safety with regard to:

- (a) Introduction of measures which may substantially affect the Health and Safety of employees.
- (b) Arrangements for appointing competent health and safety advisers and persons to implement emergency procedures.
- (c) Provision of health and safety information required under the relevant statutory provisions.
- (d) The provision of health and safety training required under the relevant statutory provisions.
- (e) The health and safety consequences of new technologies introduced into the workplace.

### **3. Implementation and Review**

The Council will:

- (a) Provide such facilities and assistance as Safety Representatives may reasonably require to carry out their functions.
- (b) Enable the establishment of Health and Safety Committees when requested by two Health and Safety Representatives.
- (c) Facilitate the progression of health and safety issues where agreement cannot be reached at a service Safety Committee to the Health Safety and Welfare Forum then if still unresolved to the relevant Joint Consultative Committee (JCC).
- (d) Provide access to information, which is required to be held by statute to Safety Representatives and provide access to employees or Representatives of

Employee Safety to such information as they require to participate in consultation.

#### **4. Definitions**

A number of specialist terms and phrases are used within these arrangements. The main terms are defined as follows:

- “The 1974 Act”: The Health and Safety at Work etc. Act 1974.
- “Recognised Trade Union”: means an independent Trade Union, as defined by the Trade Union and Labour Relations Act 1974, which the employer concerned recognises for the purpose of negotiations.
- “Safety Representative”: means a person appointed under the Safety Representatives and Safety Committees Regulations 1977 to act as a Safety Representative to represent employees within an organisation on safety matters. Safety Representatives will be appointed from recognised Trade Unions.
- “Representative of Employee Safety” is a person elected under the Health and Safety (Consultation with Employees) Regulations 1996 to represent employees who are not represented by a Safety Representative.

#### **5. Guidance**

##### **5.1 General**

The Safety Representatives and Safety Committees Regulations 1977 and the accompanying “Approved Code of Practice”, provides a framework for a co-operative approach to health and safety within the workplace. The regulations present an obligation to consult with duly appointed Safety Representatives of recognised Trade Unions. Representatives of Employee Safety elected to represent employees who are not represented by a Safety Representative must also be consulted under HSCER.

##### **5.2 Safety Representatives**

The right to appoint a Safety Representative is restricted to Trade Unions recognised by the employer for collective bargaining or by ACAS. The presence of only one employee belonging to such a Union is sufficient to require the employer to recognise that person (upon application to and appointment by the Trade Union) as a Safety Representative.

The regulations place no limit on the number of such representatives, although the approved code of practice suggests that the criteria to be considered in determining a reasonable number of Safety Representatives includes the following:

- Total number of employees
- Variety of occupations
- Type of work activity
- Degrees and character of inherent dangers.

These and other factors should be used to determine a reasonable level of safety representation. A record of the agreed arrangements should be kept.

The Council, in conjunction with the Trade Unions and Safety Representatives, will make full and proper use of the agreed industrial relations machinery to reach the degree of agreement necessary to achieve the purpose of the Regulations and in order to resolve any differences.

Unions wishing to appoint members as Safety Representatives must make written notification to the employer, of the names of those appointed. Those appointed will almost certainly be employees and would normally have had 2 years experience with the employer or possibly in a similar work environment.

Once appointed, the Safety Representative acquires a number of statutory functions and rights:

### **5.2.1 Functions**

- i) To investigate potential hazards and dangerous occurrences at the workplace (whether or not they are drawn to his attention by the employees he represents) and to examine the causes of accidents at the workplace.
- ii) To investigate complaints by any employee he represents relating to that employee's health, safety or welfare at work.
- iii) To make representations to the employer on matters arising out of i) and ii) above.
- iv) To make representation to the employer on general matters affecting the health, safety and welfare at work of the employees at the workplace.
- v) To carry out inspections (see Section 5.2.5).
- vi) To represent the employees he/she was appointed to represent in consultations at the workplace with inspectors of the Health and Safety Executive and of any other enforcing authority.
- vii) To receive information from inspectors in accordance with section 28 (8) of the 1974 Act.
- viii) To attend meetings of Safety Committees where he/she attends in his/her capacity as a Safety Representative in connection with any of the functions i) - vii) above.

It should be noted that the regulations permit reasonable time off with pay for Safety Representatives to carry out their functions (see Appendix 2).

The regulations also indicate that employers will provide such facilities and assistance as a Safety Representative may reasonably require to carry out their appointed functions.

### **5.2.2 Health and Safety Problems**

The following procedure is recommended as a means of solving problems involving health and safety. It is however recognised that employees have the right to raise matters at any stage with their trade union health and safety representative.

Firstly, the employee should raise the problem with his or her supervisor. If it is not settled, the employee should involve the Safety Representative. The Safety Representative may be able to resolve the issue at this stage, but if not he or she should raise the problem with the Supervisor, and if no agreement is reached the Safety Representative should raise the problem with the next level of management.

If the matter is still not settled the action which follows may depend on the nature of the problem and the urgency with which a solution is sought. The problem may be referred to the appropriate Safety Committee, the Health and Safety Officer may be consulted, or the Safety Representative may involve his or her trade union officials whereupon the problem becomes an industrial relations issue. It should be noted that at any time during this procedure the employee has recourse to the Council Grievance procedure.

### **5.2.3 Termination of Appointment**

The Trade Union must notify the employer that an appointment has been terminated. Alternatively the employee concerned may resign, or employment may cease at a workplace which the appointment was intended to cover, although it should be noted that a representative may still act as a Safety Representative if employed at one of a number of workplaces where appointed to represent employees.

### **5.2.4 Training**

Although Safety Representatives are not required to have qualifications, they are entitled to appropriate paid time off during normal working hours for reasonable training. Time off will normally be granted in accordance with the SRSC Regulations in conjunction with the Council's policy on Time Off for Trade Union Duties. Such training is normally provided by the Trade Union. There is no duty on employers to pay for the training of Safety Representatives.

### **5.2.5 Consultation with Safety Representatives**

Regulation 4A of the SRSCR requires employers to consult Safety Representatives in good time, in respect of the employees that they represent concerning:

- the introduction of any measure at the workplace which may substantially affect the health and safety of the employees the Safety Representatives concerned represent
- arrangements for appointing or, as the case may be, nominating persons in accordance with Regulations 7 (1) and 8 (1) (b) of the Management of Health and Safety at Work Regulations 1999

- any health and safety information required to be provided to the employees the Safety Representatives concerned represent by, or under, the relevant statutory provisions
- the planning and organisation of any health and safety training required to be provided to the employees the Safety Representatives concerned represent by, or under, the relevant statutory provisions, and
- the health and safety consequences for the employees the Safety Representatives concerned represent of the introduction (including the planning thereof) of new technologies into the workplace.

This and other consultation requirements are best met through the Safety Committees explained in Section 2.5 of this document.

When risk assessments are being planned the appropriate trade union representative should be consulted (trade unions to nominate the 'appropriate' representative for each service).

The service management should arrange for the assessments to be undertaken and thereafter for draft assessments to be finalised.

The trade unions should then be consulted on the content of the assessments which will be amended if necessary and thereafter distributed within the service.

### **5.2.6 Inspections:**

The regulations indicate that regular safety inspections of the workplace may be carried out every three months, providing that reasonable notice has been given to the employer in writing beforehand. More frequent inspections can be carried out with the agreement of the employer. In addition, where there has been a substantial change in the conditions of work or indeed new guidance has been issued relative to the hazards encountered in that workplace, further inspections can take place regardless of the time intervals.

Defects noted are to be notified in writing to the employer. There are suggested Safety Representative Report Forms for this purpose.

A Safety Representative has a conditional right to inspect and copy certain documents which the employer is required to keep under any relevant statute (having given the employer reasonable notice). There are obvious restrictions on the types of documents which can be seen, which includes documents of commercial confidentiality, information relating to an individual (unless consented to by the individual), information for use in legal proceedings, information that an employer cannot disclose without breaking the law, and anything where disclosure would be against national security interests.

### **5.2.7 Duties**

Although the regulations give wide powers to the Safety Representative, they specifically impose no additional duty. Safety Representatives will not be prosecuted for any act or omission by him in respect of the performance of functions assigned to him by the Regulations or indicated by the Approved Code of Practice.

It has been suggested that circumstances where this “immunity” might apply would include agreement during consultation on, for example, a system of work proposed by an employer which later turned out to be inadequate and became subject to prosecutions of individuals involved in the decisions to use the system.

It should be clear that Safety Representatives have no immunity when acting in their normal role of employment.

### **5.2.8 Employment Tribunals**

Safety Representatives may present claims to an Employment Tribunal if it is believed that the employer has failed to allow performance of the functions laid down in the regulations, or to allow time off work with pay to which there was an entitlement. If the tribunal agrees, it must make a declaration and can award compensation to the employee, payable by the employer. There is no right of access to the Tribunal for the employer who feels aggrieved or who wishes to test, in advance, the arrangements he proposes to make.

### **5.3. Representatives of Employee Safety**

“Where there are employees who are not represented by Safety Representatives under the 1977 Regulations, the employer is required to consult those employees in good time on matters relating to their health and safety at work and, in particular, with regard to:

- (a) the introduction of any measure at the workplace which may substantially affect the health and safety of those employees;
- (b) his arrangements for appointing or, as the case may be, nominating persons in accordance with Regulations 7 (1) and 8 (1) (b) of the Management of Health and Safety at Work Regulations 1999.
- (c) any health and safety information he is required to provide to those employees by or under the relevant statutory provisions;
- (d) the planning and organisation of any health and safety training he is required to provide to those employees by or under the relevant statutory provisions, and
- (e) the health and safety consequences for those employees of the introduction (including the planning thereof) of new technologies into the workplace”.

By virtue of Regulation 4 of HSCER the consultation must be either with the employees directly or in respect of any groups of employees with representatives elected by that group. Within the regulations those representatives are referred to as “Representatives of Employee Safety” to avoid confusion with Trade Union appointed “Safety Representatives”. Where the employer consults with Representatives of Employee Safety he has a duty to inform the employees that they represent of:

- (1) the names of those representatives, and
- (2) the groups represented by them.



Other significant requirements of these regulations are that:

- (1) employers have to make certain information, known to him, available to those he consults to enable those to participate fully and effectively in the consultation, and
- (2) Representatives of Employee Safety have the right to a reasonable amount of training paid for by their employer and to time off with pay for such training and for carrying out their functions.

The functions of elected Representatives of Employee Safety differ from that of Safety Representatives in that they do not have the right to inspect premises, examine the causes of accidents or attend meetings of the Safety Committees. They do, however, have the right to make representations to the employer on potential hazards or dangerous occurrences which could affect the group he/she represents or in general matters affecting their health and safety.

## **5.4 Consultation**

The SRSC Regulations and the HSCE Regulations place a duty on the Council to consult all employees on health and safety. The most convenient way to consult employees is via a Safety Committee but to adequately consult employees this would require the Council to agree with the Trade Unions and non union staff that the Safety Representatives represent all staff in consultation with the Council.

Other possible options would be for the Council to write to all non-union employees every time there is an issue which requires the Council to consult them, have separate meetings with Representatives of Employee Safety when issues arise or have joint meetings with Safety Representatives and Representatives of Employee Safety.

The Council will consult employees on issues which affect the employees of more than one service. This consultation process will take place via a Council Health, Safety and Welfare Forum which will include senior officers from relevant services and Trade Union Safety Representatives who have agreed to represent the interests of all employees.

Where an issue affects only the employees of one service, the director of that service will consult the employees on that particular issue. This will normally be processed via the Safety Committee of the service in the first instance.

## **5.5 Safety Committees**

### **5.5.1 Introduction**

The Safety Representatives and Safety Committees Regulations 1977 made under Sections 2 (4) and 2 (7) of the Health and Safety at Work Act 1974 have been in force since 1978. Under Regulation 9 if two or more Trade Unions Safety Representatives request in writing an employer to establish a Safety Committee he must do so in accordance with the following:

1. He must consult with the Safety Representatives who made the request and with the representatives of recognised Trade Unions whose members work in any workplace which will be covered by the Committee.

2. He must post a notice stating the composition of the Committee and the workplace covered by it.
3. The Committee must be established within three months of the request.

### **5.5.2 Membership and Structures of Safety Committees**

The Health and Safety Commission advises that the membership and structure of a Safety Committees should be agreed in consultation between management and the Trade Union representatives concerned through the normal machinery. The aim, they say, should be to keep the size of the Committee as reasonably compact as possible and compatible with the adequate representation of the interests of management and employees. The number of management representatives should not exceed the number of employees representatives.

The Commission also advises that Safety Committees are more likely to be effective where their work is related to a single establishment. They qualify this, however, by saying that where relevant decisions are taken at a higher level in large organisations there is a place for a Safety Committees at group or company level.

In view of this advice, where requested there should be a Safety Committee established in each service at a senior level attended by at least one senior official. Where there are issues which cannot be resolved at a Service Safety Committee, these should be referred to the Health Safety and Welfare Forum and, if necessary thereafter, to the relevant J.C.C.

NOTE: The above recommended structure should not preclude any service from setting up additional committees if there is agreement between management and the Trade Unions.

### **5.5.3 Functions of Safety Committees**

The Commission also provides guidance on the functions of Safety Committees and refers to the overall function, laid down in Section 2 (7) of the Health and Safety at Work Act, of keeping under review the measures taken to ensure the health and safety at work of the employees.

In 1992 the Safety Representatives and Committees Regulations 1977 were amended to include a new duty for employers to consult Safety Representatives on a number of specific issues. It would appear that Safety Committees are the ideal vehicle for management to consult Safety Representatives with regard to these issues.

Duty to consultation on the following:

- a) To provide a means of regular consultation between Council Services and their Safety Representatives, particularly the following items which are laid down in the Safety Representatives and Safety Committees Regulations 1977.
  - the introduction of any measure at the workplace which may substantially affect the health and safety of the employees the Safety Representatives concerned represent

- arrangements for appointing or, as the case may be, nominating persons in accordance with Regulations 7 (1) and 8 (1) (b) of the Management of Health and Safety at Work Regulations 1999
  - any health and safety information required to be provided to the employees the Safety Representatives concerned represent by, or under, the relevant statutory provisions
  - the planning and organisation of any health and safety training required to be provided to the employees the Safety Representatives concerned represent by, or under, the relevant statutory provisions, and
  - the health and safety consequences for the employees the Safety Representatives concerned represent of the introduction (including the planning thereof) of new technologies into the workplace.
- b) To consider accident statistics and trends and, where appropriate, the circumstances of individual accidents, dangerous occurrences and cases of reportable diseases.
- c) To consider North Lanarkshire Council's Health and Safety Audit Reports relevant to the service, reports or information from the Health and Safety Executive, and where appropriate, the reports of inspections carried out under Regulation 5 of the Safety Representative and Safety Committees Regulations 1977.
- d) To consider the service risk assessments carried out under Regulation 3 of the Management of Health and Safety at Work Regulations 1999 and consider the adequacy and appropriateness of the control measures introduced to minimise the risks.
- e) To consider the Health and Safety Plan of the Service and, where appropriate, assist in the accomplishment of the objectives of the Plan within the timescale.
- f) To assist the Services to develop a health and safety culture by considering ways to promote health and safety in the workplace and to encourage employees to have a positive attitude to health and safety.

## **5.6 Functions of the Council Health Safety, and Welfare Forum**

- a) To provide a means of regular consultation between the Council and its Safety Representatives or Representatives of Employee Safety, particularly the following items which are laid down in the SRSCR.
- the introduction of any measure at the workplace which may substantially affect the health and safety of the employees the Safety Representatives concerned represent;
  - arrangements for appointing or, as the case may be, nominating persons in accordance with Regulations 7 (1) and 8 (1) (b) of the Management of Health and Safety at Work Regulations 1999;

- any health and safety information required to be provided to the employees the Safety Representatives concerned represent by, or under, the relevant statutory provisions.
  - the planning and organisation of any health and safety training required to be provided to the employees the Safety Representatives concerned represent by, or under, the relevant statutory provisions; and
  - the health and safety consequences for the employees the Safety Representatives concerned represent of the introduction (including the planning thereof) of new technologies into the workplace.
- b) To consider North Lanarkshire Council accident statistics and trends.
- c) To consider reports or information from the Health and Safety Executive.
- d) To consider items from Service Safety Committees which have not been resolved by that Committee in an appropriate timescale.
- e) To consider the Health and Safety Plan of the Council and, where appropriate, assist in the accomplishment of the objectives of the Plan within the timescale.
- f) To assist the Council to develop a health and safety culture by considering ways to promote health and safety in the workplace and to encourage employees to have a positive attitude to health and safety.

**Extract from Schedule to the Regulations.**

THE SCHEDULE - Regulation 4 (2) "Pay for time off to Safety Representatives"

1. Subject to paragraph 3 below, where a Safety Representative is permitted to take time off in accordance with Regulation 4 (2) of these regulations, his employer shall pay him:
  - a) where the Safety Representative's remuneration for the work he would ordinarily have been doing during that time does not vary with the amount of work done as if he had worked at that work for the whole of that time.
  - b) where the Safety Representative's remuneration for that work varies with the amount of work done, an amount calculated by reference to the average hourly earnings for that work (ascertained in accordance with paragraph 2 below)
2. The average hourly earnings referred to in paragraph 1 (b) above are the average hourly earnings of the Safety Representative concerned or, if no fair estimate can be made of those earnings, the average hourly earnings for work of that description of persons in comparable employment with the same employer or, if there are no such persons, a figure of average hourly earnings which is reasonable in the circumstances.
3. Any payment to a Safety Representative by an employer in respect of a period of time off:
  - a) if it is a payment which discharges any liability which the employer may have under Section 57 of the Employment Protection Act 1975 in respect of that period, shall also discharge his liability in respect of the same period under Regulation 4 (2) of these regulations.
  - b) if it is a payment under any contractual obligation, it shall go towards discharging the employers liability in respect of the same period under Regulation 4 (2) of these regulations.
  - c) if it is a payment under Regulation 4 (2) of these Regulations it shall go towards discharging any liability of the employer to pay contractual remuneration in respect of the same period.

NOTE: Further information on the Employment Protection Act 1975 and any subsequent legislation, can be obtained from relevant Service HR teams.

### Employee Information Sheet 75

Consultation with safety representatives and the workforce is central to most workplace health and safety improvements and will be the key to the successful introduction of measures to reduce the incidence of work-related injuries and ill-health.

Employees have knowledge, expertise and ideas which give them a unique opportunity to contribute to promoting a safe and healthy workplace. Effective consultation promotes a pro-active safety culture, providing the opportunity for employees to contribute knowledge and expertise to the identification of hazards and the preparation of risk assessments.

Consultation involves employers actively seeking and then taking account of the views of employees, or their representatives, before making a decision. In the context of health and safety, it is the process by which employers and safety representatives can jointly examine and discuss safety issues in order to find acceptable solutions to problems through an open exchange of views and information.

Effective consultation therefore relies on:

- the sharing of relevant information about health and safety measures with employees;
- employees being given the opportunity to express their views and to contribute in a timely fashion to the resolution of health and safety issues;
- the views of employees being valued and taken into account.

Such consultation can result in:

- improved management decisions through gathering a wider source of ideas about health and safety;
- greater employee commitment to health and safety through a better understanding of health and safety decisions and employee ownership of the outcome of the consultation;
- greater openness, respect and trust between management and employees through developing an understanding of each other's point of view;
- higher employee morale and job satisfaction through the employer demonstrating that employee views are valued and taken into account;
- reduced injury and disease with consequent savings to the employer, employees and the general community.

The Safety Representatives and Safety Committees Regulations, 1977 detail the appointment, functions and rights of trade union safety representatives, including their right to consult with the employer on matters relating to the health and safety of the employees they represent such as the introduction of any measure that will affect the health and safety of employees represented by the safety representative or the health and safety training or information employees may receive.

Where employees are not represented by trade union safety representatives then there are duties placed upon employers, such as the Council to consult them under the Health and Safety (Consultation with Employees) Regulations 1996. This may be done directly or through elected representatives. All representatives must be provided with paid time off to carry out their duties and to undertake appropriate training; they must also be given adequate facilities on site.

### **Health, Safety and Welfare Forum**

The Health, Safety and Welfare Forum functions as the constituted Health and Safety committee for the Council. An equal number of management and trade union representatives meet together in order to examine issues and monitor improvements being made to the health and safety management systems used by the Council.

### **Consultation Corner**

This is the title of a web page located within the health and safety pages of CONNECT. Here a number of draft documents and other proposals are published in order to make them available to wide range of employees and to get some direct feedback from employees.

### **Health and Safety Notice Boards**

Each workbase has a health and safety notice board. These notice boards contain a range of health and safety related content and are used to advise employees that do not have email or CONNECT access about the health and safety issues that may affect them.

### **Employee Forum**

North Lanarkshire Council has a small group of employees who volunteer to participate in a working group lasting 12 months. The group aims to bring forward health and safety concerns with the aim of allowing them to be investigated and actions taken to eliminate or minimise concerns.

### **All User E-mails**

On occasion use is made of an "all users e-mail" this is an e-mail that will be sent to every employee with a council e-mail address. The e-mail will advise employees of a health and safety matter and may seek feedback on the content. A copy of this e-mail is normally placed on health and safety notice boards.

**Impact Assessments**

**Document Title:** Health and Safety Policy - Arrangement Section 17  
Safety Committees and Safety  
Representatives.

**Date:** 1 April 2017

**Review Date:** As circumstances dictate.

**Environmental Impact Assessment:** This document has been assessed for significant environmental impact; no detrimental impact has been identified.

**Equality Impact Assessment:** This document has been assessed for significant equality implications; no significant issues have been identified.

**General Comments:** This document is the arrangement section, relating to the inclusion of trade union representatives in the consultation and planning of health and safety matters associated with the Council's health and safety policy as required by the Health and Safety at Work Act 1974. The general aim of the council is to ensure a healthy and safe working environment for all persons working for, or making use of Council Services. Nothing in the document serves to have any negative impact on the above topic and indeed, in general, associated documents will encourage positive consideration of all factors to ensure all members of the workforce and community are afforded access to the same safe and healthy workplace.